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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/777,900

02/13/2004

Kil-soo Jung

1101.0216C

6095

89980

7590

08/20/2010

North Star Intellectual Property Law, PC

P.O. Box 34688

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EXAMINER

FABER, DAVID

ART UNIT

PAPER NUMBER

2178

NOTIFICATION DATE

DELIVERY MODE

08/20/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/777,900	<b>Applicant(s)</b> JUNG ET AL.	
	<b>Examiner</b> DAVID FABER	<b>Art Unit</b> 2178	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 47-80 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 47-80 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/10/10, 3/22/10</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This office action is in response to the Request for Continued Examination and the amendment filed on 21 April 2010, and the Information Disclosure Statements filed on 10 February 2010 and 22 March 2010.

**This office is made Non Final.**

2. Claims 1-46 have been cancelled.
3. Claims 47-80 have been added.
4. Claims 60-61 have been amended.
5. The objection to the specification has been withdrawn as necessitated by the amendment. The rejection of Claims 30-45 under 35 USC 101 has been withdrawn as necessitated by the amendment. The rejection of Claims 1-4, 20-24, 30-45 under 35 U.S.C. 103(a) as being unpatentable over Lamkin et al in view of Berstis has been withdrawn as necessitated by the amendment. The rejection of Claim 25 under 35 U.S.C. 103(a) as being unpatentable over Lamkin et al in view of Berstis in view of Blanco has been withdrawn as necessitated by the amendment. The multiple rejections of Claims 1-4, 20-24, 30-45 under double patenting have been withdrawn as necessitated by the amendment.
6. Claims 47-80 are pending. Claims 47, 52, 53, 55, 60, 62, and 67 are independent claims.

***Information Disclosure Statement***

7. The information disclosure statement filed 10 February 2010 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. Applicant submitted a copy of the reference JP 11-161663 to the Examiner and listed on the IDS to view 20030152366 or 2008159721 for a English transition. However, neither of the US PGPubs submitted fail to list JP 11-161663 under the Foreign Application Priority Data on either of its front page. Thus, its unclear if 20030152366 or 2008159721 is an actual translation of the Japanese Application 11-161663 resulting in the IDS failing to comply with 1.98(a)(3)(ii) in a copy of the translation if a written English-language translation of a non-English-language document, or portion thereof, is within the possession, custody, or control of, or is readily available to any individual designated in § 1.56(c) Furthermore, the Applicant submitted a Japanese Office Action; however, failed to provide a copy, or a portion, of the JP Office Action with an English-language translation. Thus, the IDS failed to comply with 1.98(a)(3)(ii). It has been placed in the application file, but the information referred to therein has not been considered.

8. The information disclosure statement (IDS) submitted on 22 March 2010 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

***Claim Rejections - 35 USC § 112***

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 60-61 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. Claim 60 discloses the limitation "comprising a information specifying different ways another mark-up document is to be displayed..". Based on the claim language It is unclear to the Examiner of what "specifying different ways" means since the claim fails to properly explain what the different ways are or how to be interpreted.

Any claim not specifically addressed, above, is being rejected as its failure to overcome the incorporated deficiencies of a claim upon which is depends on.

***Claim Rejections – 35 USC § 103***

- 12 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 47-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lamkin et al. (hereinafter Lamkin), U.S. Publication No. US 2002/0088011 A1, filed 7/2/2001, provisional filing 7/7/2000 (cited via Applicant's IDS), in view of Berstis et al. (hereinafter Berstis), U.S. Patent No. 6,510,458 filed 7/15/1999.

As per independent claim 47, Lamkin et al discloses an method disclosing a DVD (a storage medium) containing AV data, and including HTML documents in directories to reproduce said AV data in an interactive mode (a DVD video content and HTML content with extra information regarding said video encoded on said DVD, playable via computer connected to the Internet) (Abstract; Paragraph 0035, 0039, 0063, 0066, 0068, 0174, 0224). Furthermore, Lamkin discloses different embodiments that disclose a form of a startup document. In one embodiment, Lamkin teaches a common HTML page (index.htm) in a directory named "common" (a form of startup document) (Lamkin paragraph [0075]). Furthermore, Lamkin discloses various other embodiments in which a HTML page is shipped with a DVD (a form of startup document) that links to a web site on the Internet or other information (i.e. other documents is a form of other information) stored on the DVD (linking is a form of information about other markup document) (Lamkin, Paragraph 0035, 0066-0070)

Lamkin discloses identifying parental level values (Page 11, Right Column, "ParentalLevelSelect(n)" command) wherein the commands control the playback and navigation mechanisms of the DVD (Paragraph 0131); however, failed to disclose displaying information in documents or the documents themselves according to a set parental level from different parental levels. However, Berstis teaches Web filtering of a web page whereby a user selectable ratings service (such as parental levels) is used to rate Web content, screening objectionable content, therefore blocking transmission, etc; based upon a numerical (value) level control, wherein these set predetermined values/ratings determine which elements, content and other information of the Web

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page to be displayed . (Berstis Abstract, column 12 lines 5-10, 13-18, column 13 lines 15-20, 25-46, 54-59, column 18 lines 44-48, Figures 6-9). It is additionally noted that Berstis teaches that HTTP is a known protocol for transferring data files (e.g. text, audio, motion video, etc.) (Berstis column 6 lines 35-42). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Berstis to Lamkin, providing Lamkin the benefit of restricting objectionable content for greater parental control (i.e. providing customized HTML content in Lamkin's invention accordingly, based on Berstis's parental level (rules) selection). (see Berstis column 13 lines 16-20, 47-53).

As per dependent claim 48, Claim 48 recites similar limitations as in Claim 47 and is similarly rejected under rationale. Furthermore, Lamkin et al discloses link information identifying locations of documents (Paragraph 0066, 0068, 0070, Claim 15: discloses links to other documents/sites) However, Lamkin does not specifically teach meta-information, or link information according to different parental levels. However, Berstis teaches HTML meta-information associated with parental levels (Berstis column 10 lines 10-19; col 12, lines 13-15; col 14, lines 60-67 -insert an extra header into the document before the contents of the document; col 15, lines 4-6, 12-25 – embedding in the document). In addition, Berstis teaches specifying which sites (HTML pages) a user is allowed to see, based on a selected parental level (Berstis Figure 7). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Berstis to Lamkin, providing Lamkin the benefit of meta-data to more accurately

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describe parental data and selecting which HTML page (via links) to view based on parental levels.

As per dependent claims 49 and 50, Claims 49-50 recites similar limitations as in Claim 47 & 48 and are similarly rejected under rationale. Furthermore, Lamkin et al discloses link information identifying locations of documents (Paragraph 0066, 0068, 0070, Claim 15: discloses links to other documents/sites) Lamkin fail to specifically teach when to display documents according to a set parental level or link information according a parental level. However, Berstis teaches specifying which sites (HTML pages) a user is allowed to see, based on a selected parental level (Abstract, column 12 lines 5-10, 13-18, column 13 lines 15-20, 25-46, 54-59, column 18 lines 44-48, Figures 6-9, Berstis Figure 7). In other words, if the user has a higher allowed parental level then the page's set parental level, then the user is able to view the page and/or certain/all content. If the user has a lower allowed parent level, then the page and/or certain/all content is blocked. It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Berstis to Lamkin, providing Lamkin the benefit of meta-data to more accurately describe parental data and selecting which HTML page (via links) to view based on parental levels.

As per dependent claim 51, Lamkin discloses DVD video data and markup documents written in HTML (FIG 2; Paragraph 0035,0080). However, Lamkin does not specifically teach parental levels meeting DVD standards or ratings. However, Berstis teaches RSAC, a ratings service for computer games (typically distributed on CD or DVD, as well as MPAA for movies (typically on DVDs) (Berstis column 13 lines 15-20,



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40-46). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Berstis to Lamkin, providing Lamkin the benefit of a standard ratings system for increased ratings consistency and ratings for parental control.

As per independent claims 52, Lamkin et al discloses an method disclosing a DVD (a storage medium) containing AV data, and including HTML documents in directories to reproduce said AV data in an interactive mode (a DVD video content and HTML content with extra information regarding said video encoded on said DVD, playable via computer connected to the Internet) (Abstract; Paragraph 0035, 0039, 0063, 0066, 0068, 0174, 0224). Furthermore, Lamkin teaches various directories (i.e. directories and subdirectories) storing both DVD content and HTML content accordingly (Lamkin paragraph [0035]) . Furthermore, Lamkin discloses different embodiments that disclose a form of a startup document. In one embodiment, Lamkin teaches a common HTML page (index.htm) file for general information and general AV stored typically in a directory named "common" (i.e. root directory) (a form of startup document) (Lamkin paragraph [0075]). Also, Lamkin discloses various other embodiments in which a HTML page is shipped with a DVD (a form of startup document) that links to a web site on the Internet or other information (i.e. other documents is a form of other information) stored on the DVD (linking is a form of information about other markup document) (Lamkin, Paragraph 0035, 0066-0070) Furthermore, Lamkin teaches interactive content displayed on an interactive screen (clickable scenes in a displayed HTML Web page) on a display device that displays the HTML document and DVD content (paragraph 0066,

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0103-0104); FIG 1 item 138, FIG 2) wherein Lamkin discloses embedding AV content with the HTML document (Paragraph 0117, 0121-0124)

Lamkin discloses identifying parental level values (Page 11, Right Column, "ParentalLevelSelect(n)" command) wherein the commands control the playback and navigation mechanisms of the DVD (Paragraph 0131); however, Lamkin fails to disclose a mark-up document comprising interactive contents corresponding to a plurality of different parental levels. However, Berstis teaches Web filtering whereby a user selectable ratings service is used to rate Web content against a multi-level (parental) rating system(s) (i.e. MPAA, RSACi contain multi (different) level ratings), screening objectionable content, therefore blocking transmission, etc.(e.g. user has a lower allowed parent level than the document's parental rating/level that was set by Berstis' web filtering by comparing content against a multi-level parental rating system, then the page and/or certain/all content is blocked) (Berstis Abstract, column 12 lines 5-10, 13-18, column 13 lines 15-20, 25-46, 54-59, column 18 lines 44-48, Figures 6-9). It is additionally noted that Berstis teaches that HTTP is a known protocol for transferring data files (e.g. text, audio, motion video, etc.) (Berstis column 6 lines 35-42). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Berstis to Lampkin, providing Lampkin the benefit of restricting objectionable content for greater parental control (i.e. providing customized HTML content (i.e. two or more levels reflected in HTML pages) in Lampkin's directories/sub-directories accordingly, based on Berstis's parental level selection). (see Berstis column 13 lines 16-20, 47-53).

As per independent claim 53, Claim 53 recites similar limitations as in Claims 47 and 52 and is similarly rejected under rationale.

As per dependent claim 54, it is implicitly known in HTML for multiple links, wherein each link corresponds to document, each link has its own `<a href="">` tag that corresponds to a document.

As per dependent claim 55, Claim 55 recites similar limitations as in Claims 47 and 52 and is similarly rejected under rationale.

As per independent claim 56, Claim 56 recites similar limitations as in Claim 55, and is similarly rejected under rationale. Furthermore, Lampkin does not specifically teach displaying information according to a "set parental level". However, Berstis teaches Web filtering whereby a user selectable ratings service is used to rate Web content, screening objectionable content, therefore blocking transmission, etc., based upon a numerical (value) level control; wherein these set predetermined values determine which elements, content and other information of the Web page to be displayed, and teaches specifying which sites (HTML pages) a user is allowed to see, based on a selected parental level. (Berstis Abstract, column 12 lines 5-10, 13-18, column 13 lines 15-20, 25-46, 54-59, column 18 lines 44-48, Figures 6-9, Figure 7). It is additionally noted that Berstis teaches that HTTP is a known protocol for transferring data files (e.g. text, audio, motion video, etc.) (Berstis column 6 lines 35-42). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Berstis to Lampkin, providing Lampkin the benefit of restricting objectionable content for greater parental control (i.e. providing customized HTML content (i.e. two or more levels

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reflected in HTML pages) in Lamkin's invention accordingly, based on Berstis's parental level selection). (see Berstis column 13 lines 16-20)

As per dependent claim 57, Lamkin discloses a stylesheet (i.e. CSS) (Paragraph 0124)

As per dependent claim 58, Lampkin does not specifically teach displaying information (elements of a mark-up document allotted to class values) according to a "set parental level" (class values of elements based on display information).

However, Berstis teaches Web filtering whereby a user selectable ratings service is used to rate Web content, screening objectionable content, therefore blocking transmission, etc., based upon a numerical (value) level control; wherein these set predetermined values determine which elements, content and other information of the Web page to be displayed, and teaches specifying which sites (HTML pages) a user is allowed to see, based on a selected parental level. (Berstis Abstract, column 12 lines 5-10, 13-18, column 13 lines 15-20, 25-46, 54-59, column 18 lines 44-48, Figures 6-9, Figure 7). It is additionally noted that Berstis teaches that HTTP is a known protocol for transferring data files (e.g. text, audio, motion video, etc.) (Berstis column 6 lines 35-42). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Berstis to Lamkin, providing Lamkin the benefit of restricting objectionable content for greater parental control (i.e. providing customized HTML content) and selecting which HTML page to view based on parental levels in Lamkin's invention accordingly, based on Berstis's parental level selection). (see Berstis column 13 lines 16-20, 47-53).

As per dependent claim 59, Lamkin discloses a stylesheet (i.e. CSS) (Paragraph 0124)

As per claims 60-61, Claims 60-61 recite similar limitations as in Claims 47, 49-50, 55, and 57 and is similarly rejected under rationale.

As per independent claim 62, Claim 62 recites similar limitations as in Claims 47 and 55 and is similarly rejected under rationale. Furthermore, Lamkin discloses an optical pickup to radiate laser beams on the data storage medium to read the mark-up documents and the AV data from the data storage medium (Abstract; Paragraph 0035, 0039, 0063, 0066, 0068, 0174, 0224: Discloses a DVD (a storage medium) containing AV data, and including HTML documents in directories to reproduce said AV data in an interactive mode (a DVD video content and HTML content with extra information regarding said video encoded on said DVD, playable via computer connected to the Internet) Also, Lamkin discloses the use information being read from the disc using a laser beam. (Paragraph 0015) Furthermore, Lamkin discloses blending the HTML page and video (Paragraph 0153-0154)

Lamkin discloses identifying parental level values (Page 11, Right Column, "ParentalLevelSelect(n)" command); however, fail to specifically disclose a presentation engine identifying a predetermined value of an element of the mark-up document and determining whether to display the element depending on the predetermined value, parental level and display rule information. However, Berstis teaches Web filtering of a web page whereby a user selectable ratings service (such as parental levels) is used to rate Web content, screening objectionable content, therefore blocking transmission, etc

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wherein these set predetermined values determine which elements, content and other information of the Web page to be displayed . (Berstis Abstract, column 12 lines 5-10, 13-18, column 13 lines 15-20, 25-46, 54-59, column 18 lines 44-48, Figures 6-9). It is additionally noted that Berstis teaches that HTTP is a known protocol for transferring data files (e.g. text, audio, motion video, etc.) (Berstis column 6 lines 35-42). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Berstis to Lamkin, providing Lamkin the benefit of restricting objectionable content for greater parental control (i.e. providing customized HTML content in Lamkin's directories accordingly, based on Berstis's parental level (rules) selection). (see Berstis column 13 lines 16-20, 47-53).

As per dependent claims 63-64, Lamkin teaches a stylesheet (CSS) (Paragraph 0124)

As per dependent claim 65, Claim 65 recites similar limitations as in Claim 62 and is similarly rejected under rationale.

As per dependent claim 66, Lamkin fail to specifically teach when to display documents according to a set parental level. However, Berstis teaches specifying which sites (HTML pages) a user is allowed to see, based on a selected parental level (Abstract, column 12 lines 5-10, 13-18, column 13 lines 15-20, 25-46, 54-59, column 18 lines 44-48, Figures 6-9, Berstis Figure 7). In other words, if the user has a higher allowed parental level then the page's set parental level, then the user is able to view the page and/or certain/all content. If the user has a lower allowed parent level, then the page and/or certain/all content is blocked. It would have been obvious to one of ordinary

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skill in the art at the time of the invention to apply Berstis to Lamkin, providing Lamkin the benefit of meta-data to more accurately describe parental data and selecting which HTML page (via links) to view based on parental levels.

As per claims 67-68, Claim 67-68 recite similar limitations as in Claims 47, 55, and 62 and is similarly rejected under rationale.

As per dependent claim 69, Lamkin discloses plug-ins (Paragraph 0220)

As per dependent claim 70, Lamkin discloses retrieving data and the mark-up documents through a network. (FIG 1, 2, Paragraph 0068)

As per dependent claims 71, 72, 73, 74, 75, 76, Lamkin teaches DVD data and DVD-video and DVD-audio standards (FIG 2; Paragraph 0080) and an API (Lamkin paragraph [0051]); and setting parental levels (Page 11, Right Column, "ParentalLevelSelect(n)"). However, Lamkin does not specifically teach parental levels meeting DVD standards or ratings. However, Berstis teaches RSAC, a ratings service for computer games (typically distributed on CD or DVD, as well as MPAA for movies (typically on DVDs) (Berstis column 13 lines 15-20, 40-46). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Berstis to Lamkin, providing Lamkin the benefit of a standard ratings system for increased ratings consistency and ratings for parental control.

In addition, Lamkin teaches a common HTML page (index.htm) in a directory named "common" (a form of startup document) (Lamkin paragraph [0075]). However, Lamkin does not specifically teach meta-information. However, Berstis teaches HTML meta-information associated with parental levels (Berstis column 10 lines 10-19). It

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would have been obvious to one of ordinary skill in the art at the time of the invention to apply Berstis to Lamkin, providing Lamkin the benefit of meta-data to more accurately describe parental data.

Furthermore, Lumpkin teaches a DVD (a storage medium) containing AV data, and including HTML documents in directories to reproduce said AV data in an interactive mode (Lamkin Abstract, paragraph [0035], [0039], [0066], [0068]) and setting a parental level (Page 11, Right Column, "ParentalLevelSelect(n)"). Lamkin does not specifically teach displaying pages according to a parental level, or link information according to a parental level. However, Berstis teaches specifying which sites (HTML pages) a user is allowed to see, based on a selected parental level (Berstis Figure 7). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Berstis's levels to Lamkin's HTML selection, providing Lampkin the benefit of selecting which HTML page to view based on parental levels.

As per dependent claim 77, Claim 77 recites similar limitations as in Claim 67 and is similarly rejected under rationale. Furthermore Lamkin teaches an index.htm file for general information and general AV, said file typically stored in a "root" directory (Lamkin paragraph [0075]). In addition, Lamkin teaches various directories (i.e. directories and subdirectories) storing both DVD content and HTML content accordingly (Lamkin paragraph [0035]).

As per dependent claims 78-79, Claim 78-79 recites similar limitations as in Claim 55, 57-59, 60-61 and is similarly rejected under rationale.



As per dependent claim 80, Claim 80 recites similar limitations as in Claim 51 and is similarly rejected under rationale.

### ***Double Patenting***

14. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

15. Claims 47, 52, 53, 55, 60, 62, and 67 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 4-7 of U.S. Patent No. 7,493,552. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are substantially similar in scope and they use the same limitations, using varying terminology such that claims 47, 52, 53, 55, 60, 62, and 67 are generic to the claims 1, 4-7 of U.S. Patent 7,493,552. That is, claims

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47, 52, 53, 55, 60, 62, and 67 are anticipated by claims 1, 4-7 of U.S. Patent 7,493,552 since claims 1, 4-7 of U.S. Patent 7,493,552 contains all the limitations of claims 47, 52, 53, 55, 60, 62, and 67 of Application 10/777900

### ***Response to Arguments***

16. Applicant's arguments with respect to claims 47-80 have been considered but are moot in view of the new ground(s) of rejection.

Applicant has cancelled the original claims 1-4, 23-25, and 30-45, and added new claims 47-80 which require a new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Faber whose telephone number is 571-272-2751. The examiner can normally be reached Monday-Thursday, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Hong, can be reached on 571-272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

/David Faber/  
Examiner, Art Unit 2178

/Stephen S. Hong/  
Supervisory Patent Examiner, Art Unit 2178